established practice in all countries where there are large natural forests, to enact either a complete Forest Code, or at any rate a series of laws and ordinances dealing with all or some of the subjects to which I have alluded.

## SECTION II.—FOREST LAWS IN EUROPE AND INDIA.

### § 1.—*The laws of Europe.*

Among the best known of the European laws may be mentioned the French Forest Code[5] of 1827, the Austrian law (*Forstgesetz*) of 3rd December 1852, supplemented by the "Imperial

places within this realm in forests, but also of great wood and timber, the want whereof, as well at this present time as in time to come, shall appear in the navy of this realm.

"And furthermore, the want of the execution of the Forest laws doth breed the ignorance of them so much as it is at this day: for these laws now are not only out of use in most places, but also grown into contempt with many inhabitants in forests. I do not speak this to that end that I would have Forest laws rigorously executed upon offenders in forests, but to have them so executed that forests may be still known for forests, and the game preserved for His Majesty: for, otherwise, it were better to disafforest them altogether, and then His Majesty shall be discharged of the great fees that are yearly paid to officers of the forest out of His Majesty's Court of Exchequer."

The other passage, showing the modern aspect of the question, is brief but admirably put, and deserves to be quoted. Eding remarks in his preface:—"Forests are not only necessary in the economy of human society, but also in the economy of nature; and this necessity is so great and so real, and has such an intimate connection with the welfare of the State, that a scheme of legislation which ignored it, would inflict a grievous injury on the country at large. The injury resulting from a neglect of forests is all the greater, because it operates only gradually. The mischief done, proceeds slowly on, till, all at once, it comes to be seriously felt by everybody. Then it is too late: the restoration of the forest is either altogether impossible, or requires for its accomplishment a long period of years and an enormous and disproportionate expenditure."

[5] There is a small pocket edition of this Code, containing also the laws about reboisement of mountains, the Codes of hunting and fishing, and the Regulations of the forest service. It is uniform with the "Guide Forestier" and published at the "Bureau of the Revue des Eaux et Forêts," Paris. There is also a useful edition containing all recent alterations and orders relating to the subject, forming part of a series of "Codes Annotées" by A. Sirey, published at Paris (Cosse Marchal et Cie Place Dauphine 27.) (See also list of abbreviations at the beginning.)

Patent" of 1853, regarding the buying out of forest rights[6]; the law of Saxony described by Qvenzel;[7] and the Bavarian law of 1852[8]. A complete and rather over-elaborate forest law for Hungary was passed in 1879. There is no code of forest law in Prussia, but a number of separate regulations and ordinances. In Italy a general forest law has been passed (20th June 1877). There is also a Swiss Federal law of 1876 applicable to all the Cantons, which contains some admirable provisions[9].

### § 2.—*The laws in force in India.*

In India, the Forest law applicable[10] to Bengal, Assam, the North-Western Provinces, Oudh and the Panjáb[1], the Central Provinces and Bombay, is the Act VII of 1878. In the Panjáb, a short code of rules for hill forests, passed in 1855, still has the force of law under the Panjáb Laws Act (IV of 1872), and these rules must be read along with the subsidiary rules made under them. The Kangra rules of 1860 and the Rawalpindi rules of 1856 are the only ones that have been sanctioned. In Berár there are "forest rules" issued by the Governor General which closely resemble the Act of the rest of India. For Madras a special Act will shortly be passed. Ajmer has a special Regulation (VI of 1874) under 33 Vic., Cap. 3. Burma has a special forest law (Act XIX of 1881), which may be described generally as an improved edition of

[6] This Code is described in Grabner's work.

[7] See list of authors at the beginning, giving the abbreviated titles used throughout this Manual.

[8] This law is the basis of Dr. Roth's work.

[9] This, of course, is apart from local regulations and laws applicable to the different Cantons. The general law was passed in 1876, and may be found in the *Revue des Eaux et Forêts* for July 1876 (Vol XV, page 233).

[10] See section 1, Act VII of 1878.

[1] One of the Panjáb districts (Hazára) being a frontier country occupied by mountains, has a special Regulation under the 33 Vic., Cap. 3 (No. II of 1879 repealing the older one of 1873). This proceeds on the same principles as the Indian Act, but deals specially with the important question of protecting forests in the interest of village communities, forests which cannot be brought under the law relating to Government reserves.

In Bengal at the time I am writing (1882) the old forest Act VII of 1865, is still in force in the Soutál parganas.

the Indian Act, with some additions and alterations to suit the special conditions of the province.

I think that the general lines of Indian forest legislation are now sufficiently secured to enable me usefully to present the student with a somewhat detailed account of them. I shall take both the Indian and British Burma Acts as a basis, without, however, professing to comment on every separate section.

### § 3.—*Use made of Continental laws in this Manual.*

Throughout the work I shall illustrate my remarks by an occasional comparison with the laws I have above alluded to, partly because it is always instructive to compare one law with another; partly to show that the great principles on which forest law must always proceed, are fundamentally the same, no matter how local circumstances may require variations and additions in matters of detail. It will be, I think, a strong ground for confidence in the general wisdom and reasonableness of our own legal provisions,—even those which seem at first sight to persons unaccustomed to deal with these questions, arbitrary or too extensive—if I can show that they are supported by a *consensus* of skilled opinion in Europe[2]. But there is another use in such a comparison. There remain a large number of matters of detail which the Indian Act has not touched on; matters which must settle themselves in the course of practice, and by the decisions of the Courts when questions arise. I think that it will be found that the more developed practice of European nations will

[2] It is true that the countries of Europe exhibit a degree of civilisation so much higher than that of India that provisions which are accepted in the one may be viewed as ill adapted to the other. But this argument is least applicable where those who object to forest legislation in India most require to use it. The objection to forest law is chiefly that it is an interference with the rights of the villagers, and here the difference of civilisation does not tell. It is surprising how much alike in regard to wants of grazing, firewood, &c., the peasantry of all countries are. The Swiss, French, and Italian peasantry, after generations of forest conservancy, are as much opposed to the necessary restrictions on the exercise of rights, and often make objections to them as unreasonable, as the peasantry of an Indian province.

very often afford excellent suggestions to be adopted into our own practice, and help us in settling some of the questions that the Act does not dispose of.

### § 4.—*Objections to some of the Continental laws.*

I am well aware that all the Continental forest laws do not work equally well. The Austrian Code, I am informed, excellent as it is on paper, is not carried out to much practical effect. The Italian law, distinguished for its simplicity, is said to be ineffective in many provinces. In this latter case, however, and I have no doubt in others also, the defect is in the administration, rather than in the law. In Italy, it is the misfortune of the country, that in bygone days—days which sensible men would give worlds to recall—all, or nearly all, the State forests were alienated. The law now applies to forests belonging to communes and to public institutions, and to private forests under certain circumstances, and to a limited extent. But the absence of State forests deprives the Government of the means of training a staff of forest officers in the work of practical forest management; and the forest officers who have been taught at the Forest School, lack the experience that responsibility in regard to actual management (not mere inspection) can alone give[3].

I do not, therefore, think that these difficulties in any way depreciate the value of these laws, as means of confirming or illustrating the rules laid down in our own laws. They remain unaffected as regards their principles, and it is on account of the importance of certain principles in forest law, and to justify those principles

[3] Forests are also under the law, managed (owing to their being partly communal and partly private estates) under the direction of committees (*comitats forestale*) of whom the Government forest officer is only one member (a public engineer, elected delegates of the municipalities, &c., being the others, with the préfet as president). Unless such committees are very enlightened, and really let the forest officer guide all professional points while helping him in other matters, it is impossible but that local and personal interests and prejudices will intervene to the destruction of all real control. A forest cannot be managed, any more than a regiment in the army, by a debating club.

by showing that they are recognised in countries where the subject of forest management has long received attention, that I chiefly employ them.

§ 5.—*The English law on forest matters.*

The English law and its text-books are less useful. This is not to be wondered at, since England is not a forest country. There are no large estates maintained by the Government or by public institutions for the purposes for which forests are maintained in the continent of Europe and in India.

The ancient laws relating directly to the preservation of the deer have now only a historical interest, and the only modern legislation that can be called forest law, is the law relating to the New Forest, which is not only purely local, but is in itself entirely unsatisfactory.

The Enclosure Acts touch upon one branch of the law of forests—the compensation of rights of user which are interfered with by the 'enclosure' of certain lands; but here, again, the Enclosure Acts do not contemplate, otherwise than casually, the creation of plantations, still less of forest estates *for the public benefit*, and therefore the treatment of rights of user is provided for from a totally different point of view and with a totally different object.

The fact is that the idea of forest estates managed for the public benefit, has never taken any hold in England, where the configuration of the soil and the climate do not (speaking generally) make forests a necessity, where the abundance of coal has superseded firewood, and where the import of foreign timber has hitherto been cheap and easy. Circumstances, therefore, have not favoured the growth of a body of forest jurisprudence.

The text-books dealing with forest rights are few. The most recent work is "Williams on Rights of Common." These lectures are chiefly taken up with the peculiar features which distinguish the acquisition and exercise of rights of common under the Common Law and certain statutes. The reference made to forests is cursory, and then solely to the old laws, not to any modern view of the subject.